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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

KAO, JUTAI

ART UNIT

PAPER NUMBER

2616

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/552,050	Applicant(s) BAUMEISTER ET AL.	
	Examiner JUTAI KAO	Art Unit 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 October 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitations regarding the actual methods and the different types of control messages must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claim 1-10 are objected to because of the following informalities: excessive labeling within the claims. Labels shown in parenthesis within the claims should be removed. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 3 recites the limitation "the simulated transmitter of the target" in line 3-4.

There is insufficient antecedent basis for this limitation in the claim.

5. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 recites the phrase "is adapted to be capable of". Such phrase is considered optional language and does not limit the claim to the claimed features.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claim 1, 2, 4 and 9-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Arauz-Rosado (US 2006/0174015).

Arauz-Rosado discloses a method for codec selection including the following features.

Regarding claim 1, a method of ensuring the quality of service in a broadcast network (see “broadcast” recited in paragraph [0133], showing that the network is capable of broadcasting), wherein one network participant as source (see EP-A 91 in Fig. 9) transmits a data stream to another network participant as target (see EP-B 92 in Fig. 9) without performing its own control of the quality of service (see MCS 93, which performs the Codec selection process 70 in Fig. 9, that is, the selected codec represents the quality of service provided, and since the codec is selected by the multimedia controller, MCS, the endpoints do not perform their own control of quality of service); a further network participant (see “Bandwidth Allocation Server” (BWAS) recited in paragraph [0024]) observes, as a bandwidth manager, the network traffic (see “bandwidth usage on the monitored network” recited in paragraph [0025]) and, in the case of a risk of overload (see “if the bandwidth usage in a given moment surpasses the predefined high-level” recited in paragraph [0025]), transmits a control message to the source, which message causes this source to reduce said data stream (see “orders to the endpoints to use codecs that requires less bandwidth” recited in paragraph [0025]).

Regarding claim 2, wherein the data are exchanged in the network in a packet-oriented manner, particularly in accordance with a TCP/IP-based protocol (see “TCP” recited in paragraph [0057]).

Regarding claim 4, wherein the control message represents a direct request for reducing the data stream (see “orders to the endpoints to use codecs that requires less bandwidth” recited in paragraph [0025]).

Regarding claim 9, a network apparatus (see “BWAS” recited in paragraph [0024]-[0025], or the MCS shown in Fig. 9), characterized in that it is adapted to be capable of operating as a bandwidth manager in a method as claimed in claim 1 (see rejection to claim 1).

Regarding claim 10, a network comprising network participants (see participants in Fig. 9) including at least one network apparatus as claimed in claim 9 (see MCS in Fig. 9).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claim 3 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arauz-Rosado in view of Hanson (US 5,633,861).

Arauz-Rosado discloses the claimed limitations as shown above.

Arauz-Rosado does not disclose the following features: regarding claim 3, wherein the bandwidth manager transmits the control message to the source through the simulated transmitter of the target; regarding claim 8, wherein the tasks between a plurality of network participants which can operate as bandwidth managers are co-ordinated.

Hanson discloses a traffic management and congestion control method including the following features.

Regarding claim 3, wherein the bandwidth manager transmits the control message to the source through the simulated transmitter of the target (see “destination node generates special empty packets for transmission to the source node upon which the utilization information may be piggy-backed by the intermediate nodes” recited in column 2, lines 52-57; wherein the utilization information represents the control message, the intermediate node represents the bandwidth manager, and by modifying a

message generated by the destination node, a simulated transmission of the destination node is performed; column 2, line 37-51 also shows similar piggy-backing technique).

Regarding claim 8, wherein the tasks between a plurality of network participants which can operate as bandwidth managers (see "intermediate nodes" recited in column 2, lines 37-51) are co-ordinated (see "other active virtual connections reduce their use of excess network resources in favor of the newly active virtual connection..." recited in column 3, lines 5-17; which shows the coordination).

It would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the system of Arauz-Rosado using features, as taught by Hanson, in order to reduce extra use of network resources (by saving resources using the piggy-back technique).

11. Claim 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arauz-Rosado in view of Akashi (US 4,500,990).

Arauz-Rosado discloses the claimed limitations as shown above.

Arauz-Rosado does not disclose the following features: regarding 5, wherein the control message simulates an error in the transmission of the data stream from the source to the target, so that the source is made to reduce the data stream; regarding claim 6, wherein the control message triggers a connection break down.

Akashi discloses a data communication device including the following features.

Regarding 5, wherein the control message simulates an error in the transmission of the data stream from the source to the target (see "The obstruction signal transmitting

means is responsive to the overflow flag for transmitting an obstruction signal to the transmission medium. The obstruction signal is for causing a collision on the transmission medium" recited in column 3, lines 12-17), so that the source is made to reduce the data stream (see abstract, "transmission of data packets thereto is suspended when a collision is detected", therefore, the obstruction signal cause the data rate to become zero).

Regarding claim 6, wherein the control message triggers a connection break down (see abstract, "transmission of data packets thereto is suspended when a collision is detected", therefore, the obstruction signal cause the data rate to become zero).

It would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the system of Arauz-Rosado using features, as taught by Akashi, in order to notify the end nodes of the overflowing situation.

12. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Arauz-Rosado in view of Igarashi (US 2007/0184839).

Arauz-Rosado discloses the claimed limitations as shown above.

Arauz-Rosado does not disclose the following features: regarding claim 7, wherein the bandwidth manager first attempts to reduce the largest data stream in view of a plurality of data streams between apparatuses without their own quality of service control in the case of risk of overload of the network.

Igarashi discloses a mobile communication system including the following features.

Regarding claim 7, wherein the bandwidth manager first attempts to reduce the largest data stream in view of a plurality of data streams between apparatuses without their own quality of service control in the case of risk of overload of the network (see "if a new packet data communication is established, the data rate of a connection with the highest data rate is reduced..." recited in paragraph [0134], previous paragraphs shows that the network is at saturation, thus the new connection would cause the network to overflow).

It would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the system of Arauz-Rosado using features, as taught by Igarashi, in order to provide minimum service to more users.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JUTAI KAO whose telephone number is (571)272-9719. The examiner can normally be reached on Monday ~Friday 7:30 AM ~5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kwang Yao can be reached on (571)272-3182. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2616

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ju-Tai Kao

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